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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

[Proposal to Amend Joint Travel Regulations]

FILE: B-199424

DATE: October 7, 1980

MATTER OF: ^{Re: title} Acquired Dependent Attaining 21 Years
of Age - Transportation from Overseas

DIGEST: The Joint Travel Regulations may not be amended to authorize transportation at Government expense for the return transportation to the United States of a uniformed service member's child acquired overseas when the dependent was less than 21 years of age who was subsequently command sponsored and then became 21 years of age before the member's next permanent change of station. 37 U.S.C. § 406(h), which authorizes return transportation of dependent children from overseas after reaching age 21, applies only to dependents transported overseas at Government expense.

This decision is in response to a request for an advance decision from the Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) concerning whether the Joint Travel Regulations may be amended to authorize the transportation of a uniformed services member's dependent child acquired outside the United States to the same extent as that authorized for a dependent transported to the member's permanent duty station outside the United States at Government expense and attaining 21 years of age while the member is serving at such station. The answer is no.

Generally, upon attaining age 21 a person loses the status of dependent child for the purpose of transportation at Government expense. See 37 U.S.C. § 401. However, as is stated in the request for decision, paragraph M7012, Volume 1, Joint Travel Regulations (1 JTR), authorizes transportation of a dependent child attaining age 21 while a member is serving outside the United States when a member is ordered on a permanent change of station (PCS) as long as the unmarried child was transported at Government expense to a location outside the United States. The statutory authority for this regulation is found in the following provision in 37 U.S.C. § 406(h) (1976) which was added by Public Law 88-431, 78 Stat. 439:

"* * * For the purpose of this section, a member's unmarried child for whom the member

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received transportation in kind to his station outside the United States or in Hawaii or Alaska, reimbursement therefor, or a monetary allowance in place thereof and who became 21 years of age while the member was serving at that station shall be considered as a dependent of the member."

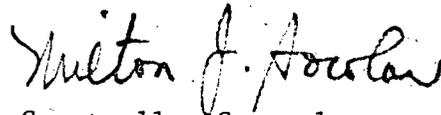
The question is raised as to whether the language of 37 U.S.C. § 406(h) is sufficiently broad to permit amendment of 1 JTR to authorize transportation for a dependent who was acquired overseas (not transported there at Government expense) when the dependent was less than 21 years of age, was then command sponsored, and then became 21 years of age before the member sponsor's next PCS.

The language of the section in question seems to be clear in its requirement that children over 21 may be returned to the United States only if they were transported overseas at Government expense. Further, in the hearings (No. 10) held on May 28, 1963, before Subcommittee No. 1, Committee on Armed Services, House of Representatives, on H.R. 4739, which was enacted as Public Law 88-431, it was stated (page 3005) that the purpose of the legislation was to authorize return transportation to the United States of unmarried children of a member who become 21 years of age while the member is assigned on duty overseas. It was stated further (page 3007) that it was considered that the Government has a responsibility to provide return transportation to the United States of the children of a member who were transported overseas at Government expense, incident to a sponsor's change of permanent duty station, and who attain the age of 21 while the member is serving overseas, and that under the proposed bill the Government's responsibility for the return of such children upon advance return of dependents or upon the assignment of the member to duty in the United States would be recognized. A similar statement of purpose appears on page 3 of Report No. 415 of the Committee on Armed Services, House of Representatives, dated June 18, 1963, to accompany H.R. 4739. The present regulations are limited to that situation. See also 45 Comp. Gen. 82 (1965).

The specific language used in the statute and its legislative history make it clear that Congress felt the Government had an obligation to return a dependent child to the United States in those situations where the dependent had been

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transported overseas at Government expense in the first place. No inference can be drawn that the Congress felt the Government had any obligation for return transportation of dependent children who were acquired overseas and then lost their status as dependents for transportation purposes by becoming 21 years of age. Until legislation is passed authorizing the Government to assume the expenses of transportation on a different basis than is now authorized, such expenses must be borne by the persons concerned. Accordingly, we are required to object to amending the regulations as proposed.



for the Comptroller General
of the United States